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17 **UNITED STATES DISTRICT COURT**
18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
19 **SAN FRANCISCO DIVISION**

20 ----- X
21 TARI LABS, LLC,
22
23 Plaintiff,
24
25 -against-
26
27 LIGHTNING LABS, INC.
28
29 Defendant.
30 ----- X

31 CASE NO.: 3:22-CV-07789-WHO
32
33 **DEFENDANT LIGHTNING**
34 **LABS' SUR-REPLY**
35 **MEMORANDUM OF POINTS**
36 **AND AUTHORITIES IN**
37 **OPPOSITION TO PLAINTIFF'S**
38 **MOTION FOR A TEMPORARY**
39 **RESTRAINING ORDER**

1 Defendant Lightning Labs, Inc. (“Lightning Labs”) respectfully submits this sur-reply to
2 address Plaintiff’s new evidence regarding an independent third-party’s “Taro Web Wallet.”

3 Lightning Labs’ opposition brief explained in detail why no confusion is likely between
4 the sophisticated Bitcoin developer user base for the TARO protocol and the unrelated services
5 that may be offered under the TARI mark. As in its complaint and initial motion, Tari Labs’ reply
6 once again repeatedly misstates facts and provides an incomplete picture to the Court in an attempt
7 to manufacture confusion. The “Taro Web Wallet” website – which is the work of an independent
8 developer in Canada, not Lightning Labs – will not be confused with the “Tari Aurora”
9 smartphone app for the Tari blockchain – referred to simply as “Aurora” – or with TARI.¹

10 Third-party developers in the open-source community regularly create developer-facing
11 software prototypes to test how protocols function.² The names of early-stage developer projects
12 often refer to the protocol on which they are built, so other developers can understand what the
13 project is supposed to do. These technical references serve to make clear to developers exactly
14 what technical tools they are working with. These projects are public-facing (because developers
15 are members of the public), but the intended audience is sophisticated, technical developers. Tari
16 Labs repeatedly tries to muddle the record by conflating “public-facing” and “consumer-facing,”
17 but those are very different concepts in software development. Consumer-facing applications
18 avoid complex references to software protocols in order to provide a clear and simple user
19 experience: the developer of an email client might call it a “web-based SMTP client” as a
20 developer-facing name, but would rebrand before a consumer-facing release.³

21 Tari Labs knows full well that developer-facing websites reference protocols while
22 consumer-facing branding does not. Its own developer-facing code base is called “lib_tariwallet,”
23 but the consumer-facing branding is “Aurora.”⁴ Unsurprisingly, Tari Labs’ consumer-facing
24

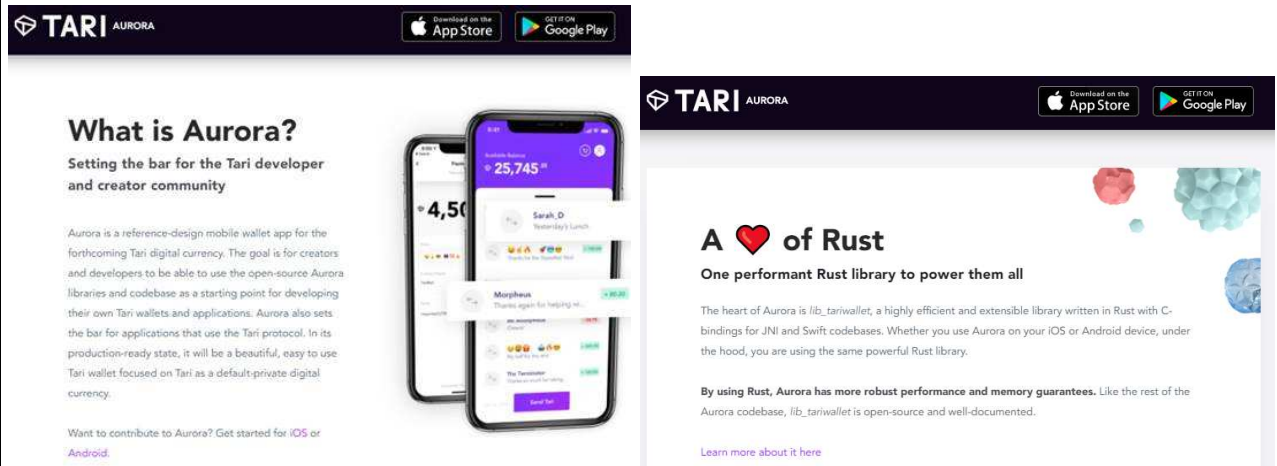
25 ¹ Evidencing the crowded field, Tari Labs does not have the only “Aurora” in crypto. *See*
26 Declaration of Christopher S. Ford (“Ford Decl.”), Ex. A (AURORA network and token).

26 ² Supplemental Declaration of Elizabeth Stark (“Stark Supp. Decl.”) ¶¶ 7, 9, and 10.

27 ³ Supp. Stark Decl. ¶ 7 (2001 developer page “Web based SMTP client program”); ¶ 21.

28 ⁴ Ford Decl., Ex. B (“Aurora is a reference-design mobile wallet app for the forthcoming
Tari digital currency. . . . The heart of Aurora is *lib_tariwallet*, a highly efficient and extensible

Apple App Store page for Aurora contains no references to the underlying “lib_tariwallet” code base.⁵ “Lib_tariwallet” is instead mentioned on the separate Tari Aurora website immediately above an invitation to developers to “learn more about it” via a link to a webpage containing “[t]he latest updates from developers contributing to the Tari protocol.”⁶



The “Taro Web Wallet” (located at <https://testnet.tarowallet.net>) is unlikely to be found by anyone except through the developer’s own sharing of the URL with other developers on sites like Stacker News, which is a Bitcoin technical community forum.⁷ Nobody who encounters the “Taro Web Wallet” site will be confused into believing it is associated with Tari. The “Taro Web Wallet” homepage states right at the top that it is for the “Bitcoin blockchain,” contains six references to Bitcoin, and shows a screenshot of a wallet application with references to “Bitcoin Core” and “BTC” (the acronym for the bitcoin cryptocurrency).⁸ The website does not compete at all, let alone “directly” with Tari Labs’ “Aurora” smartphone app, which is for different assets on a different blockchain. As set forth below, the website’s highly technical content is targeted to sophisticated Bitcoin developers – not ordinary consumers, as Tari Labs misleadingly suggests.

The homepage says the wallet “gives users a web interface to interact with taro daemon running on Bitcoin testnet without the need for you to operate a Lightning node [*sic* throughout],” and informs developers that the site can “expose a number of facets *to help you test your taro*

library written in Rust with C-bindings for JNI and Swift codebases.”).

⁵ *Id.*, Ex. C (screenshots of Aurora App Store page).

⁶ *Id.*, Ex. B.

⁷ Supp. Stark Decl. ¶ 10.

⁸ *Id.*, Ex. A (Taro Web Wallet homepage).

1 *testnet node.*” The homepage also contains links to Lightning Labs’ developer-facing technical
 2 documentation for the Taro Daemon and to the Github repository for the TARO protocol code.⁹
 3 Ordinary consumers are not “test[ing] [a] taro testnet node.” Nor would ordinary consumers
 4 understand references to the “taro daemon” or understand the TARO protocol’s code.

5 The “Taro Web Wallet” has two “FAQs,” which explain that that the “Taro protocol is a
 6 cryptographics protocol based on Merke trees [*sic*] and Schnorr signatures that allows for
 7 representations of alternative currencies and non-fungible tokens (NFTs) on Bitcoin blockchain”
 8 and that the “Taro web wallet is a website that allows you to securely access taro protocol without
 9 the need to operate Lnd, Tarod, BitcoinD or any other software required.”¹⁰ Ordinary consumers
 10 would not understand references to “Merk[l]e trees,” “Schnorr signatures,” or “Lnd, Tarod, [or]
 11 BitcoinD,” because these are highly technical concepts and software applications used exclusively
 12 by expert blockchain developers.

13 Consistent with all of the other technical references throughout the website, developers
 14 would understand that the third-party developer behind the “Taro Web Wallet” referenced the
 15 TARO protocol so that other developers would understand the project—just as the developer of an
 16 early-stage email client might refer to it as an “SMTP Mail Client.” Indeed, the developer behind
 17 the “Taro Web Wallet” sought feedback from the Bitcoin developer community on the technical
 18 and developer-focused website Stacker News, again indicating that the project was intended for a
 19 technical audience.¹¹ Sophisticated developers or technical users who encounter the “Taro Web
 20 Wallet” website, with its repeated references to the Bitcoin blockchain, will not be confused into
 21 believing it is associated with TARI in any way.

22 There is accordingly no possibility of confusion between the third-party “Taro Web
 23 Wallet” project and any TARI-branded goods or services. Tari Labs’ reliance on this developer-
 24 facing prototype to argue that confusion is likely once again reveals the fundamental flaw in Tari

25 ⁹ *Id.*

26 ¹⁰ Developers will recognize these as the names of the “lnd” implementation for the
 27 Lightning Network, TARO daemon, and Bitcoin Core daemon. *Id.* ¶¶ 14–18; Ex. C (Taro wallet
 28 FAQ page).

¹¹ *Id.* ¶¶ 10, 12.

1 Labs’ argument: TARO is the name of a developer-focused protocol, not a public-facing brand for
 2 everyday consumers. As Lightning Labs explained in its opposition papers, developers who work
 3 on blockchain projects are sophisticated enough to understand the differences between different
 4 blockchains and different protocols, and are careful users who are not easily confused, especially
 5 given the crowded field of marks in the blockchain space. *See Dfinity Found. v. Meta Platforms,*
 6 *Inc.*, 22-CV-2632, 2022 WL 16857036, at *10 (N.D. Cal. 2022) (“That these sophisticated people,
 7 immersed in the intricacies of the tech world, would be duped . . . borders on implausible.”).

8 Nor will anyone encounter the “Taro Web Wallet” in the same channels as the “Aurora”
 9 wallet, rendering confusion even more unlikely. Although Tari Labs’ brief misleadingly places a
 10 screenshot of the website-based “Taro Web Wallet” alongside a screenshot of the Apple App Store
 11 page for the “Tari Aurora” wallet, in reality those are entirely separate channels of trade. *See*
 12 *Apple, Inc. v. Amazon.com Inc.*, No. 11-cv-1327, 2011 WL 2638191, at *8 (N.D. Cal. July 6,
 13 2011) (denying motion for a preliminary injunction; noting that Amazon.com website and Apple
 14 iTunes Store are different marketing channels); *see also J.T. Colby & Co. v. Apple Inc.*, No. 11-cv-
 15 4060, 2013 WL 1903883, at *18 (S.D.N.Y. May 8, 2013), *aff’d*, 586 F. App’x 8 (2d Cir. 2014)
 16 (Amazon.com and BarnesandNoble.com are “different channels” than iTunes Store).¹²

17 Tari Labs unreasonably delayed in bringing its request for emergency injunctive relief,
 18 undercutting irreparable harm. Here, too, Tari Labs has delayed: the “Taro Web Wallet” project
 19 was mentioned on Twitter and Stacker News as early as January 26, 2023 – nearly a month before
 20 Tari Labs’ motion for a TRO, and 35 days before Tari Labs’ reply.¹³ While Tari Labs claimed in
 21 its brief to have “just yesterday” learned about the “Taro Web Wallet” project, if true, that fact
 22 only shows that Tari Labs was unaware of this independent developer’s project, or did not
 23 properly investigate before filing its TRO motion. That further undermines any argument that
 24 TARO will cause confusion or harm to Tari Labs, and shows Tari Labs’ inappropriate delay.

25 _____
 26 ¹² Even if the “Tari Aurora” wallet and the “Taro Web Wallet” were within the same channel
 27 of trade, no confusion would be likely. The full context of the websites in question makes
 28 perfectly clear to visitors that Aurora is wallet software for the Tari blockchain, and the Taro Web
 Wallet is for the Bitcoin blockchain. There is no reason to believe anyone would confuse the two.

¹³ Supp. Stark Decl. ¶ 10; Ex. B (January 26, 2023 Stacker News and Twitter posts).

CONCLUSION

The Court should deny Tari Labs' motion for a temporary restraining order.

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